

## **REMARKS**

By this Amendment, claims 19 and 83 are amended to depend from independent claim 1. Consequently, claims 1-8, 10-21, 23-54, and 56-100 are pending in this application, with claims 1, 34, 47, 59, 69, and 87 being independent.

In the Office Action dated October 10, 2006, the Examiner required an election of one of the following allegedly distinct species for prosecution in this case:

Species A: allegedly drawn to "a medical device having an end effector and a distal member configured to open and close the distal end of a lumen, the distal member connected to the distal end of the end effector, and defining a flow path that enables communication between the lumen and an outside of the elongated member (Figs. 5-6);"

Species B: allegedly drawn to "a medical device having an end effector and a distal member configured to open and close the distal end of a lumen, a nozzle defining a flow path that enables communication between the lumen and an outside of the elongated member, wherein at least a portion of the flow path has a cross-sectional flow area smaller than both a cross-sectional flow area of an inlet of the flow path and a cross-sectional flow area of an outlet of the flow path (Figs. 8a-b);" and

Species C: allegedly drawn to "a medical device having an end effector and a distal member, the distal member connected to the proximal end of the end effector, and defining a flow path that enables communication between the lumen and an outside of the elongated member (Figs. 9-10)."

Although Applicant does not necessarily agree with the Examiner's assertions concerning the allegedly distinct claimed species, Applicant provisionally elects to prosecute Species B, with traverse. Applicant respectfully submits that at least claims 1-8, 10-18, 28-40, 43-54, 56-67, 69-75, 81, 82, 87-89, 93, and 97-100 appear to be readable on elected Species B.

Upon allowance of independent claims 1, 34, 47, 59, and 69, Applicant respectfully requests that claims 23-27 (depending from independent claim 1), claims 41

and 42 (depending from independent claim 34), claims 90-92 (depending from independent claim 47), claims 68 and 94-96 (depending from independent claim 59), and claims 76-80 (depending from independent claim 69) be rejoined in this application and be allowed at least by virtue of their dependency from allowable independent claim 1, 34, 47, 59, or 69. In addition, since claim 19 and 83 have been amended to depend from independent claim 1, upon allowance of claim 1, claims 19-21 and 83-86 should also be rejoined in this application and be allowed.

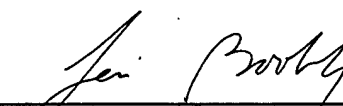
Please grant any extensions of time required to enter this Response and charge any additional required fees not otherwise provided with this filing to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: November 8, 2006

By: \_\_\_\_\_

  
Leslie I. Bookoff  
Reg. No. 38,084